

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SHERWIN A. MURRELL,

Plaintiff,

-against-

THE CITY OF NEW YORK, P.O.  
MICHAEL PARKS, Shield # 13520 & P.O.  
JOHN DOE 1-6,

Defendants.  
-----X

**ANSWER**

**07 CV 5609 (CM)(DCF)**

**Jury Trial Demanded**

Defendants THE CITY OF NEW YORK and MICHAEL PARKS, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, as for their answer to the complaint, respectfully allege as follows:

1. Deny the allegations set forth in paragraph "1" of the complaint, except admit that plaintiff purports to proceed as stated therein.
2. Deny the allegations set forth in paragraph "2" of the complaint, except admit that plaintiff purports to invoke the Court's jurisdiction as stated therein.
3. Deny knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "3" of the complaint.
4. Deny the allegations set forth in paragraph "4" of the complaint, except admit that defendant City of New York is a municipal corporation.
5. Deny the allegations set forth in paragraph "5" of the complaint, except admit that defendant Parks is employed by the City of New York as a police officer.
6. Deny knowledge or information sufficient to form a belief the allegations set forth in paragraph "6" of the complaint concerning unidentified defendants.



7. Deny knowledge or information sufficient to form a belief as to the allegations set forth in paragraph “7” of the complaint.

8. Deny the allegations set forth in paragraph “8” of the complaint.

9. Deny the allegations set forth in paragraph “9” of the complaint.

10. Deny the allegations set forth in paragraph “10” of the complaint.

11. Deny the allegations set forth in paragraph “11” of the complaint.

12. Deny the allegations set forth in paragraph “12” of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

13. The complaint fails in whole or in part to state a claim upon which relief may be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

14. Defendants have not violated any rights, privileges or immunities secured to plaintiff under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have they violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

15. At all times relevant to the acts alleged in the complaint, defendants acted reasonably in the proper and lawful exercise of their discretion.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**



16. To the extent plaintiff asserts state law claims against the defendants such claims should be barred by the doctrine of governmental immunity for discretionary, policy-making and/or judgmental functions.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

17. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and/or the intervening conduct of third parties and was not the proximate result of any act of the defendants.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

18. There was probable cause for plaintiff's arrest, detention and prosecution.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

19. Punitive damages are not recoverable as against the City.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

20. Michael Parks has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore is protected by qualified immunity.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

21. Plaintiff failed to comply with New York General Municipal Law §§ 50(e), 50(h) and 50(i).

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

22. Plaintiff has not satisfied all the conditions precedent to suit.

**AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE**

23. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.



**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**


24. At all times relevant to the acts alleged in the complaint, defendants, acted reasonably, properly, lawfully, and in good faith in the exercise of their discretion. Therefore, defendant City is entitled to governmental immunity from liability.

**WHEREFORE**, defendants THE CITY OF NEW YORK and PARKS request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
September 21, 2007

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendants City & Parks  
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By:

  
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**07 CV 1792 (CM)(DCF)**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHERWIN A. MURRELL,

Plaintiff,

-against-

THE CITY OF NEW YORK, P.O.  
MICHAEL PARKS, Shield # 13520 & P.O.  
JOHN DOE 1-6,

Defendants.

**ANSWER**

***MICHAEL A. CARDOZO***

*Corporation Counsel of the City of New York &  
Parks*

*100 Church Street, Room 3-148  
New York, N.Y. 10007*

*Of Counsel: Joyce Campbell Priv  terre*

*Tel: (212) 788-1277  
NYCLIS No.*

*Due and timely service is hereby Admitted.*

*New York, N.Y. September 20, 2007*

*Joyce Campbell Priv  terre, Esq.*

*Attorney for Defendants City & Parks*